

ASSEMBLY BILL

No. 779

Introduced by Assembly Member Jones

February 22, 2007

An act to amend Section 1798.82 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

AB 779, as introduced, Jones. Personal information: computerized data: breaches.

Existing law requires any person or business that conducts business in California, and that owns or licenses computerized data that includes personal information, to disclose any breach of that data.

This bill would make technical, nonsubstantive changes to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1798.82 of the Civil Code, as added by
- 2 Section 4 of Chapter 1054 of the Statutes of 2002, is amended to
- 3 read:
- 4 1798.82. (a) Any person or business that conducts business
- 5 in California, and that owns or licenses computerized data that
- 6 includes personal information, shall disclose any breach of the
- 7 security of the system following discovery or notification of the
- 8 breach in the security of the data to any resident of California
- 9 whose unencrypted personal information was, or is reasonably

1 believed to have been, acquired by an unauthorized person. The
2 disclosure shall be made in the most expedient time possible and
3 without unreasonable delay, consistent with the legitimate needs
4 of law enforcement, as provided in subdivision (c), or any measures
5 necessary to determine the scope of the breach and restore the
6 reasonable integrity of the data system.

7 (b) Any person or business—~~that maintains~~ *maintaining*
8 computerized data that includes personal information that the
9 person or business does not own shall notify the owner or licensee
10 of the information of any breach of the security of the data
11 immediately following discovery, if the personal information was,
12 or is reasonably believed to have been, acquired by an unauthorized
13 person.

14 (c) The notification required by this section may be delayed if
15 a law enforcement agency determines that the notification will
16 impede a criminal investigation. The notification required by this
17 section shall be made after the law enforcement agency determines
18 that it will not compromise the investigation.

19 (d) For purposes of this section, “breach of the security of the
20 system” means unauthorized acquisition of *unencrypted*
21 computerized data that compromises the security, confidentiality,
22 or integrity of personal information maintained by the person or
23 business. Good faith acquisition of personal information by an
24 employee or agent of the person or business for the purposes of
25 the person or business is not a breach of the security of the system,
26 provided that the personal information is not used or subject to
27 further unauthorized disclosure.

28 (e) For purposes of this section, “personal information” means
29 an individual’s first name or first initial and last name in
30 combination with ~~any~~ one or more of the following data elements,
31 when either the name or the data elements are not encrypted:

32 (1) Social security number.

33 (2) Driver’s license number or California Identification Card
34 number.

35 (3) Account number, credit or debit card number, in combination
36 with any required security code, access code, or password that
37 would permit access to an individual’s financial account.

38 (f) For purposes of this section, “personal information” does
39 not include publicly available information that is lawfully made

1 available to the general public from federal, state, or local
2 government records.

3 (g) For purposes of this section, “notice” may be provided by
4 one of the following methods:

5 (1) Written notice.

6 (2) Electronic notice, if the notice provided is consistent with
7 the provisions regarding electronic records and signatures set forth
8 in Section 7001 of Title 15 of the United States Code.

9 (3) Substitute notice, if the person or business demonstrates that
10 the cost of providing notice would exceed two hundred fifty
11 thousand dollars (\$250,000), or that the affected class of subject
12 persons to be notified exceeds 500,000, or the person or business
13 does not have sufficient contact information. Substitute notice
14 shall consist of all of the following:

15 (A) E-mail notice when the person or business has an e-mail
16 address for the subject persons.

17 (B) Conspicuous posting of the notice on the Web site page of
18 the person or business, if the person or business maintains one.

19 (C) Notification to major statewide media.

20 (h) Notwithstanding subdivision (g), a person or business that
21 maintains its own notification procedures as part of an information
22 security policy for the treatment of personal information and is
23 otherwise consistent with the timing requirements of this part, shall
24 be deemed to be in compliance with the notification requirements
25 of this section if the person or business notifies subject persons in
26 accordance with its policies in the event of a breach of security of
27 the system.